

Applicants: Ellen W. Collisson et al.  
Serial No.: 09/303,510  
Filed: April 30, 1999  
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encodes non-feline CD86.

#### REMARKS

Claims 2, 48-52, 55, 56, 62-64, 83-85 and 90 are pending and under examination in the subject application. Applicants have hereinabove amended claim 48. Support for this amendment may be found inter alia in the substitute specification which applicants filed on September 28, 2000 as follows: page 14, lines 33-36; page 22, lines 4-9; and page 36, line 18. In making this amendment, applicants neither concede the correctness of the Examiner's rejection, nor abandon their right to pursue in a continuing application embodiments of the instant invention no longer claimed in this application. Applicants maintain that this amendment raises no issue of new matter, and respectfully request entry of this Amendment. Upon entry of this Amendment, claims 2, 48-52, 55, 56, 62-64, 83-85 and 90 will still be pending and under examination.

A version of the amended claim marked up to show the changes relative to the previous version thereof is attached hereto as **Exhibit A**.

In view of the arguments set forth below, applicants maintain that the Examiner's rejection has been overcome and respectfully request that the Examiner reconsider and withdraw same.

#### Formalities

Applicants acknowledge the Examiner's statement that all outstanding rejections against claims 2, 55, 56, 62-64, 83-85 and 90 are withdrawn and that these claims are now allowable.

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Rejection Under 35 U.S.C. §102(b)

The Examiner rejected claims 48-52 under 35 U.S.C. §102(b) as allegedly anticipated by Maher et al.

In support of this rejection, the Examiner stated that applicants' previous amendment to claim 48 deleting the phrase "uniquely present" broadened the claims to read on the art. Specifically, the Examiner asserts that Maher et al. disclose the cloning and sequence of CD86 from porcine, and that this sequence has many regions that contain at least 12 or 15 nucleotide stretches that are in common with the instantly claimed sequence. The Examiner further asserts that because the reference discloses using probes for subcloning procedures which requires the presence of a detectable label, the instantly claimed oligonucleotides are anticipated by Maher et al.

In response, applicants respectfully traverse. Claim 48, as amended, provides an oligonucleotide which has a sequence complementary to a sequence present in the nucleic acid encoding feline CD86 but not present in nucleic acid encoding non-feline CD86. Accordingly, applicants contend that Maher et al., which does not describe the instant feline CD86 nucleic acid sequence, does not anticipate amended claim 48, nor claims 49-52 which depend therefrom.

In view of the above remarks, applicants maintain that claims 48-52 satisfy the requirements of 35 U.S.C. §102(b).

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Summary

In view of the remarks made herein, applicants maintain that the claims pending in this application are in condition for allowance. Accordingly, allowance is respectfully requested.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorneys invite the Examiner to telephone either of them at the number provided below.

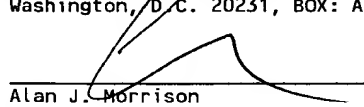
No fee is deemed necessary in connection with the filing of this Amendment. However, if any fee is required, authorization is hereby given to charge the amount of such fee to Deposit Account No. 03-3125.

Respectfully submitted,



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I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, BOX: AF.

  
Alan J. Morrison  
Reg. No. 37,399

10/30/02  
Date

**Marked-up Version of Amended Claim:**

48. (3X Amended) An oligonucleotide of at least 12 nucleotides which has a sequence complementary to a sequence which is present in the nucleic acid which encodes feline CD86 as set forth in claim 2 but is not present in nucleic acid which encodes non-feline CD86.